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IN RE APPLICATION OF	:
MAKOTO KAWAMURA	: EXAMINER: KAMAL, S.
SERIAL NO: 10/507,210	:
FILED: SEPTEMBER 15, 2004	: GROUP ART UNIT: 3621
FOR: INFORMATION PROCESSING SYSTEM, INFORMATION PROCESSING DEVICE, INFORMATION PROCESSING METHOD, PROGRAM AND RECORDING MEDIUM	:

APPEAL BRIEF UNDER 37 CFR § 41.37(c)

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Further to the Notification of Non-Compliant Appeal Brief dated February 20, 2009,
Appellant appeals the rejection in the Office Action dated August 21, 2008.

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I. REAL PARTY IN INTEREST UNDER 37 CFR § 41.37(c)(1)(i)

The real party in interest is SONY CORPORATION, the assignee of record, having a place of business at 7-35 Kitashinagawa 6-chome, Shinagawa-ku, Tokyo, Japan.

II. RELATED APPEALS AND INTERFERENCES UNDER 37 CFR § 41.37(c)(1)(ii)

Appellant, appellant's legal representative, and the assignee are not aware of any other prior and pending appeals, interferences, or judicial proceedings that may be related to, directly effect or be directly effected by, or have a bearing on the board's decision in the pending appeal.

III. STATUS OF CLAIMS UNDER 37 CFR § 41.37(c)(1)(iii)

Claims 1-6, 8-12, 14-19, and 21-25 are pending in this application. Claims 7, 13, and 20 were canceled.

Each of Claims 1-6, 8-12, 14-19, and 21-25 stand rejected, and the rejection of each of Claims 1-6, 8-12, 14-19, and 21-25 is being appealed.

IV. STATUS OF AMENDMENTS UNDER 37 CFR § 41.37(c)(1)(iv)

An Amendment Under 37 CFR § 1.116, filed October 25, 2008 and including amendments to Claims 1, 2, 6, 8, 9, 12, 14, 15, 19, and 21-25, was not entered by the Examiner. Accordingly, the claims on appeal are as amended by the Amendment Under 37 CFR § 1.111, filed May 2, 2008.

V. SUMMARY OF CLAIMED SUBJECT MATTER UNDER 37 CFR § 41.37(c)(1)(v)

The subject matter of the claims is described by way of non-limiting descriptions and illustrations in the specification and drawings, for example as indicated below.

Claim 1

Independent Claim 1 is directed to an information processing system comprising a license server (for example, license server 4 of Fig. 1 and the exemplary hardware of Fig. 2, and as described in the specification at least at page 12, lines 9-11, page 14, lines 19-21) providing (for example, selling or sending, as described in the specification at least at page 12, lines 8-13) a license (for example, a license as in Fig. 8, and as described in the specification at least at page 27, lines 6-15) for utilizing content (for example, content as described in the specification at least at page 16, lines 9-12, and page 18, lines 1-10). The information processing system also comprises a terminal (for example, client 1-1 in Figs. 1 and 2, and as described in the specification at least at page 12, lines 3-7 and 16-21) requesting the license from the license server (for example, step S67 of Fig. 7, and as described in the specification at least at page 25, lines 16-24), obtaining the license (for example, as described in the specification at least at page 26, lines 5-9), and utilizing the content based on the license (for example, steps S46-S48 of Fig. 6, and as described in the specification at least at page 22, lines 5-25).

One of the license server and the terminal includes duplicate-license determination means for determining (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, steps S81 and S82 of Fig. 9, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 26, lines 1-4, page 34, line 7 to page 35, line 9, page

40, line 12 to page 41, line 19)¹ whether or not the license requested by the terminal from the license server duplicates (for example, as described in the specification at least at page 30, line 18 to page 33, line 5) a license already held by the terminal.

The terminal includes license-duplication reporting means for reporting license duplication (for example, CPU 21 of Fig. 2, steps S83 and S87 of Fig. 9, 52 of Fig. 11B, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 35, lines 10-20, and page 38, lines 11-17)² indicating that the license requested by the terminal from the license server duplicates a license already held by the terminal according to the determination result by the duplicate-license determination means.

Claim 2

Independent Claim 2 is directed to an information processing apparatus (for example, client 1-1 in Figs. 1 and 2, and as described in the specification at least at page 12, lines 3-7 and 16-21) for requesting a license (for example, a license as in Fig. 8, and as described in the specification at least at page 27, lines 6-15) from a license server (for example, license server 4 of Fig. 1 and the exemplary hardware of Fig. 2, and as described in the specification at least at page 12, lines 9-11, page 14, lines 19-21) providing the license for utilizing content (for example, content as described in the specification at least at page 16, lines 9-12, and page 18, lines 1-10), obtaining the license (for example, as described in the specification at least at page 26, lines 5-9), and utilizing the content based on the license (for example, steps S46-S48 of Fig. 6, and as described in the specification at least at page 22, lines 5-25).

¹ Additional non-limiting embodiments of means for determining are also disclosed at least at step S107 of Fig. 12, steps S121 and S122 of Fig. 13, step S167 of Fig. 14, step S182 of Fig. 15, steps S206 of Fig. 16, steps S231 and S232 of Fig. 17, step S268 of Fig. 18, steps S307 of Fig. 20, and step S331-S333 of Fig. 22.

² Additional non-limiting embodiments of means for reporting are also disclosed at least at step S123 of Fig. 13, S183 of Fig. 15, steps S281-S285 of Fig. 19, and steps S334 and S335 of Fig. 22.

The information processing apparatus of Claim 2 comprises duplicate-license determination means for determining (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, steps S81 and S82 of Fig. 9, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 26, lines 1-4, page 34, line 7 to page 35, line 9, page 40, line 12 to page 41, line 19) whether or not a license requested from the license server duplicates (for example, as described in the specification at least at page 30, line 18 to page 33, line 5) an already available license.

The information processing apparatus of Claim 2 also comprises license-duplication reporting means for reporting license duplication (for example, CPU 21 of Fig. 2, steps S83 and S87 of Fig. 9, 52 of Fig. 11B, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 35, lines 10-20, and page 38, lines 11-17) indicating that the license requested from the license server duplicates an already available license according to the determination result by the duplicate-license determination means.

Claim 4

Claim 4 is directed to the information processing apparatus according to Claim 2, further comprising confirming means for confirming (for example, CPU 21 of Fig. 2, step S89 of Fig. 9, and as described in the specification at least at page 39, lines 10-20) whether or not a license which duplicates an already available license is purchased when license duplication is reported by the license-duplication reporting means.

Claim 5

Claim 5 is directed to the information processing apparatus according to Claim 2, further comprising license-identification-information acquiring means for acquiring (for

example, CPU 21 of Fig. 2, and receiving the request for query on license ID step S81 of Fig. 9, as described in the specification at least at page 40, lines 12-19) license identification information (for example, the license-ID, as described in the specification at least at page 40, lines 15-19) of a license required to utilize content from the license server.

The information processing apparatus of Claim 5 also comprises license-list storage means for storing a license list of licenses already purchased (for example, the license list of Fig. 10). The duplicate-license determination means determines whether or not a license requested from the license server duplicates an already available license by comparing the license identification information acquired by the license-identification-information acquiring means with the license list stored by the license-list storage means (for example, CPU 21 of Fig. 2, as described in the specification at least at page 40, lines 19-22).

Claim 6

Independent Claim 6 is directed to a method for processing information that includes, in part, requesting a license (for example, a license as in Fig. 8, and as described in the specification at least at page 27, lines 6-15) from a license server (for example, license server 4 of Fig. 1 and the exemplary hardware of Fig. 2, and as described in the specification at least at page 12, lines 9-11, page 14, lines 19-21) providing (for example, selling or sending, as described in the specification at least at page 12, lines 8-13) the license for utilizing content (for example, content as described in the specification at least at page 16, lines 9-12, and page 18, lines 1-10). The method also includes obtaining the license (for example, as described in the specification at least at page 26, lines 5-9), utilizing the content based on the license (for example, steps S46-S48 of Fig. 6, and as described in the specification at least at page 22, lines 5-25), and determining (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, steps S81 and S82 of Fig. 9, and as described in the specification at least at page 12, line 25 to page 14,

line 12, page 14, line 19 to page 15, line 12, page 26, lines 1-4, page 34, line 7 to page 35, line 9, page 40, line 12 to page 41, line 19)³ whether or not a license requested from the license server duplicates (for example, as described in the specification at least at page 30, line 18 to page 33, line 5) an already available license.

Furthermore, the method includes reporting license duplication (for example, CPU 21 of Fig. 2, steps S83 and S87 of Fig. 9, 52 of Fig. 11B, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 35, lines 10-20, and page 38, lines 11-17)⁴ indicating that the license requested from the license server duplicates an already available license according to the determination result in the determining step.

Claim 8

³ Additional non-limiting embodiments of means for determining are also disclosed at least at step S107 of Fig. 12, steps S121 and S122 of Fig. 13, step S167 of Fig. 14, step S182 of Fig. 15, steps S206 of Fig. 16, steps S231 and S232 of Fig. 17, step S268 of Fig. 18, steps S307 of Fig. 20, and step S331-S333 of Fig. 22.

⁴ Additional non-limiting embodiments of means for reporting are also disclosed at least at step S123 of Fig. 13, S183 of Fig. 15, steps S281-S285 of Fig. 19, and steps S334 and S335 of Fig. 22.

Independent Claim 8 is directed to a computer-readable medium storing a computer-executable program for processing information, and when the program is executed by a computer, the computer performs steps including requesting a license (for example, a license as in Fig. 8, and as described in the specification at least at page 27, lines 6-15) from a license server (for example, license server 4 of Fig. 1 and the exemplary hardware of Fig. 2, and as described in the specification at least at page 12, lines 9-11, page 14, lines 19-21) providing (for example, selling or sending, as described in the specification at least at page 12, lines 8-13) the license for utilizing content (for example, content as described in the specification at least at page 16, lines 9-12, and page 18, lines 1-10). The method also includes obtaining the license (for example, as described in the specification at least at page 26, lines 5-9), utilizing the content based on the license (for example, steps S46-S48 of Fig. 6, and as described in the specification at least at page 22, lines 5-25), and determining (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, steps S81 and S82 of Fig. 9, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 26, lines 1-4, page 34, line 7 to page 35, line 9, page 40, line 12 to page 41, line 19)⁵ whether or not a license requested from the license server duplicates (for example, as described in the specification at least at page 30, line 18 to page 33, line 5) an already available license.

Additionally, the method includes reporting license duplication (for example, CPU 21 of Fig. 2, steps S83 and S87 of Fig. 9, 52 of Fig. 11B, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 35, lines 10-20, and page 38, lines 11-17)⁶ indicating that the license requested from the license

⁵ Additional non-limiting embodiments of means for determining are also disclosed at least at step S107 of Fig. 12, steps S121 and S122 of Fig. 13, step S167 of Fig. 14, step S182 of Fig. 15, steps S206 of Fig. 16, steps S231 and S232 of Fig. 17, step S268 of Fig. 18, steps S307 of Fig. 20, and step S331-S333 of Fig. 22.

⁶ Additional non-limiting embodiments of means for reporting are also disclosed at least at step S123 of Fig. 13, S183 of Fig. 15, steps S281-S285 of Fig. 19, and steps S334 and S335 of Fig. 22.

server duplicates an already available license according to the determination result in the determining step.

Claim 9

Independent Claim 9 is directed to an information processing apparatus for requesting a license from a license server providing the license for utilizing content, obtaining the license, and utilizing the content based on the license, for example as described above with respect to Claim 2.

The apparatus of Claim 9 comprises determination-result receiving means for receiving (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, step S268 of Fig. 18, step S281 of Fig. 19, and as described in the specification at least at page 60, line 20 to page 61, line 2, and page 63, lines 5-11) from the license server a result of determination as to whether or not a license requested from the license server duplicates an already available license.

The apparatus of Claim 9 also comprises license-duplication reporting means for reporting license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received by the determination-result receiving means (for example, CPU 21 of Fig. 2, step S87 of Fig. 9, and step S283 of Fig. 19, and as described in the specification at least at page 63, lines 15-24).

Claim 10

Claim 10 is directed to the information processing apparatus according to claim 9, further comprising confirming means (e.g., CPU 21 of Fig. 2, step S267 of Fig. 18, step S285 of Fig. 19, and as described in the specification at least at page 62, lines 9-16, and page 64, line 14 to page 65, line 9) for confirming whether or not a license which duplicates an already

available license is purchased when license duplication is reported by the license-duplication reporting means.

Claim 12

Independent Claim 12 is directed to a method for processing information for requesting a license (for example, a license as in Fig. 8, and as described in the specification at least at page 27, lines 6-15) from a license server (for example, license server 4 of Fig. 1 and the exemplary hardware of Fig. 2, and as described in the specification at least at page 12, lines 9-11, page 14, lines 19-21) providing the license for utilizing content (for example, content as described in the specification at least at page 16, lines 9-12, and page 18, lines 1-10), obtaining the license (for example, as described in the specification at least at page 26, lines 5-9), and utilizing the content based on the license (for example, steps S46-S48 of Fig. 6, and as described in the specification at least at page 22, lines 5-25). The method includes, in part, a determination-result receiving step of receiving (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, step S268 of Fig. 18, step S281 of Fig. 19, and as described in the specification at least at page 60, line 20 to page 61, line 2, and page 63, lines 5-11) from the license server a result of determination as to whether or not the license requested from the license server duplicates an already available license.

Furthermore, the method includes a license-duplication reporting step of reporting license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received in the determination-result receiving step (for example, CPU 21 of Fig. 2, step S87 of Fig. 9, and step S283 of Fig. 19, and as described in the specification at least at page 63, lines 15-24).

Claim 14

Independent Claim 14 is directed to a computer-readable medium storing a computer-executable program for processing information, and when the program is executed by a computer, the computer performs steps that include, in part, requesting a license (for example, a license as in Fig. 8, and as described in the specification at least at page 27, lines 6-15) from a license server (for example, license server 4 of Fig. 1 and the exemplary hardware of Fig. 2, and as described in the specification at least at page 12, lines 9-11, page 14, lines 19-21) providing the license for utilizing content (for example, content as described in the specification at least at page 16, lines 9-12, and page 18, lines 1-10). The method also includes obtaining the license (for example, as described in the specification at least at page 26, lines 5-9), and utilizing the content based on the license (for example, steps S46-S48 of Fig. 6, and as described in the specification at least at page 22, lines 5-25).

Further, the method includes receiving (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, step S268 of Fig. 18, step S281 of Fig. 19, and as described in the specification at least at page 60, line 20 to page 61, line 2, and page 63, lines 5-11) from the license server a result of determination as to whether or not the license requested from the license server duplicates an already available license.

Additionally, the method includes reporting license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received in the receiving step (for example, CPU 21 of Fig. 2, step S87 of Fig. 9, and step S283 of Fig. 19, and as described in the specification at least at page 63, lines 15-24).

Claim 15

Independent Claim 15 is directed to an information processing apparatus for providing a license for utilizing content in response to a request by a terminal utilizing the content. The apparatus comprises query means for making an inquiry about licenses already held by the terminal (for example, CPU 21 of Fig. 2, step S122 of Fig. 13, and as described in the specification at least at page 48, lines 5-11).

The apparatus also comprises duplicate-license determination means for determining whether or not the license requested by the terminal duplicates a license already held by the terminal (for example, CPU 21 of Fig. 2, step S107 of Fig. 12, step S123 of Fig. 13, step S307 of Fig. 20, and step S333 of Fig. 22, and as described in the specification at least at page 48, lines 11-14, and page 67, lines 14-24).

Further, the apparatus comprises determination-result sending means for sending a determination result by the duplicate-license determination means to the terminal (for example, CPU 21 of Fig. 2, steps S334 and S335 of Fig. 22, and as described in the specification at least at page 68, lines 9-22).

Claim 16

Claim 16 is directed to the information processing apparatus according to claim 15, further comprising license-information storage means (for example, RAM 23, storage section 28, and drive 3 of Fig. 2, and user management table of Fig. 21, and as described in the specification at least at page 66, lines 9-15, and page 69, line 23 to page 70, line 1) for storing information about the license provided to the terminal. Also, the query means asks the license-information storage means for licenses already held by the terminal (for example, step S332 of Fig. 22, and as described in the specification at least at page 67, lines 19-24).

Claim 17

Claim 17 is directed to the information processing apparatus according to claim 15, wherein the query means asks a management server managing information about the license provided to the terminal for licenses already held by the terminal (for example, as described in the specification at least at page 69, line 23 to page 70, line 1, and page 70, lines 15-25).

Claim 18

Claim 18 is directed to the information processing apparatus according to Claim 15, wherein, when the duplicate-license determination means determines that the license requested by the terminal duplicates a license already held by the terminal (for example, see step S333 of Fig. 22) and when a message confirming purchase of the license that duplicates the license already held by the terminal is sent from the terminal (for example, see step S336 of Fig. 22, and as described in the specification at least at page 69, lines 1-12), the license requested by the terminal is provided to the terminal (for example, see step S308 of Fig. 20).

Claim 19

Independent Claim 19 is directed to a method for processing information for providing a license for utilizing content in response to a request by a terminal utilizing the content. The method includes, in part, making an inquiry about licenses already held by the terminal (for example, CPU 21 of Fig. 2, step S122 of Fig. 13, and as described in the specification at least at page 48, lines 5-11).

The method also includes determining whether or not the license requested by the terminal duplicates a license already held by the terminal (for example, CPU 21 of Fig. 2, step S107 of Fig. 12, step S123 of Fig. 13, step S307 of Fig. 20, and step S333 of Fig. 22, and as described in the specification at least at page 48, lines 11-14, and page 67, lines 14-24), and sending a determination result in the determining step to the terminal (for example, CPU

21 of Fig. 2, steps S334 and S335 of Fig. 22, and as described in the specification at least at page 68, lines 9-22).

Claim 21

Independent Claim 21 is directed to a computer-readable medium storing a computer-executable program for processing information for providing a license for utilizing content in response to a request by a terminal utilizing the content, and when the program is executed by a computer, the computer performs steps including, in part, making an inquiry about licenses already held by the terminal (for example, CPU 21 of Fig. 2, step S122 of Fig. 13, and as described in the specification at least at page 48, lines 5-11).

Furthermore, the computer performs determining whether or not the license requested by the terminal duplicates a license already held by the terminal (for example, CPU 21 of Fig. 2, step S107 of Fig. 12, step S123 of Fig. 13, step S307 of Fig. 20, and step S333 of Fig. 22, and as described in the specification at least at page 48, lines 11-14, and page 67, lines 14-24), and sending a determination result in the determining step to the terminal (for example, CPU 21 of Fig. 2, steps S334 and S335 of Fig. 22, and as described in the specification at least at page 68, lines 9-22).

Claim 22

Independent Claim 22 is directed to an information processing system that recites features similar to those of independent Claim 1, as discussed above, without using means-plus-function terminology to thereby avoid an interpretation of any elements under 35 U.S.C. § 112, sixth paragraph, and have a different scope. In particular, Claim 22 recites an information processing system that includes, in part, a license server (for example, license server 4 of Fig. 1 and the exemplary hardware of Fig. 2, and as described in the specification

at least at page 12, lines 9-11, page 14, lines 19-21) providing (for example, selling or sending, as described in the specification at least at page 12, lines 8-13) a license for utilizing content (for example, content as described in the specification at least at page 16, lines 9-12, and page 18, lines 1-10), and a terminal (for example, client 1-1 in Figs. 1 and 2, and as described in the specification at least at page 12, lines 3-7 and 16-21) requesting the license from the license server (for example, step S67 of Fig. 7, and as described in the specification at least at page 25, lines 16-24), obtaining the license (for example, as described in the specification at least at page 26, lines 5-9), and utilizing the content based on the license (for example, steps S46-S48 of Fig. 6, and as described in the specification at least at page 22, lines 5-25).

One of the license server and the terminal includes a duplicate-license determination section (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, steps S81 and S82 of Fig. 9, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 26, lines 1-4, page 34, line 7 to page 35, line 9, page 40, line 12 to page 41, line 19)⁷ configured to determine whether the license requested by the terminal from the license server duplicates (for example, as described in the specification at least at page 30, line 18 to page 33, line 5) a license already held by the terminal.

The terminal includes a license-duplication reporting section (for example, CPU 21 of Fig. 2, steps S83 and S87 of Fig. 9, 52 of Fig. 11B, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 35, lines 10-20, and page 38, lines 11-17)⁸ configured to report license duplication indicating that the license requested by the terminal from the license server duplicates a license already held

⁷ Additional non-limiting embodiments of means for determining are also disclosed at least at step S107 of Fig. 12, steps S121 and S122 of Fig. 13, step S167 of Fig. 14, step S182 of Fig. 15, steps S206 of Fig. 16, steps S231 and S232 of Fig. 17, step S268 of Fig. 18, steps S307 of Fig. 20, and step S331-S333 of Fig. 22.

⁸ Additional non-limiting embodiments of means for reporting are also disclosed at least at step S123 of Fig. 13, S183 of Fig. 15, steps S281-S285 of Fig. 19, and steps S334 and S335 of Fig. 22.

by the terminal according to the determination result by the duplicate-license determination section.

Claim 23

Independent Claim 23 is directed to an information processing apparatus that recites features similar to those of independent Claim 2, as discussed above, without using means-plus-function terminology to thereby avoid an interpretation of any elements under 35 U.S.C. § 112, sixth paragraph, and have a different scope. In particular, Claim 23 recites an information processing apparatus (for example, client 1-1 in Figs. 1 and 2, and as described in the specification at least at page 12, lines 3-7 and 16-21) for requesting a license (for example, a license as in Fig. 8, and as described in the specification at least at page 27, lines 6-15) from a license server (for example, license server 4 of Fig. 1 and the exemplary hardware of Fig. 2, and as described in the specification at least at page 12, lines 9-11, page 14, lines 19-21) providing the license for utilizing content (for example, content as described in the specification at least at page 16, lines 9-12, and page 18, lines 1-10), obtaining the license (for example, as described in the specification at least at page 26, lines 5-9), and utilizing the content based on the license (for example, steps S46-S48 of Fig. 6, and as described in the specification at least at page 22, lines 5-25).

The information processing apparatus of Claim 23 includes, in part, a duplicate-license determination section (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, steps S81 and S82 of Fig. 9, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 26, lines 1-4, page 34, line 7 to page 35, line 9, page 40, line 12 to page 41, line 19) configured to determine whether a license requested from the license server duplicates (for example, as described in the specification at least at page 30, line 18 to page 33, line 5) an already available license, and a license-

duplication reporting section configured to report license duplication (for example, CPU 21 of Fig. 2, steps S83 and S87 of Fig. 9, 52 of Fig. 11B, and as described in the specification at least at page 12, line 25 to page 14, line 12, page 14, line 19 to page 15, line 12, page 35, lines 10-20, and page 38, lines 11-17) indicating that the license requested from the license server duplicates an already available license according to the determination result by the duplicate-license determination section.

Claim 24

Independent Claim 24 is directed to an information processing apparatus that recites features similar to those of independent Claim 9, as discussed above, without using means-plus-function terminology to thereby avoid an interpretation of any elements under 35 U.S.C. § 112, sixth paragraph, and have a different scope. In particular, Claim 24 recites an information processing apparatus for requesting a license from a license server providing the license for utilizing content, obtaining the license, and utilizing the content based on the license. The apparatus of Claim 24 includes, in part, a determination-result receiving section (for example, CPU 21 of Fig. 2, step S68 of Fig. 7, step S268 of Fig. 18, step S281 of Fig. 19, and as described in the specification at least at page 60, line 20 to page 61, line 2, and page 63, lines 5-11) configured to receive from the license server a result of determination as to whether a license requested from the license server duplicates an already available license, and a license-duplication reporting section configured to report license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received by the determination-result receiving section (for example, CPU 21 of Fig. 2, step S87 of Fig. 9, and step S283 of Fig. 19, and as described in the specification at least at page 63, lines 15-24).

Claim 25

Independent Claim 25 is directed to an information processing apparatus that recites features similar to those of independent Claim 15, as discussed above, without using means-plus-function terminology to thereby avoid an interpretation of any elements under 35 U.S.C. § 112, sixth paragraph, and have a different scope. In particular, Claim 25 recites an information processing apparatus for providing a license for utilizing content in response to a request by a terminal utilizing the content. The apparatus includes, in part, a query section configured to make an inquiry about licenses already held by the terminal (for example, CPU 21 of Fig. 2, step S122 of Fig. 13, and as described in the specification at least at page 48, lines 5-11), a duplicate-license determination section configured to determine whether the license requested by the terminal duplicates a license already held by the terminal (for example, CPU 21 of Fig. 2, step S107 of Fig. 12, step S123 of Fig. 13, step S307 of Fig. 20, and step S333 of Fig. 22, and as described in the specification at least at page 48, lines 11-14, and page 67, lines 14-24), and a determination-result sending section configured to send a determination result by the duplicate-license determination section to the terminal (for example, CPU 21 of Fig. 2, steps S334 and S335 of Fig. 22, and as described in the specification at least at page 68, lines 9-22).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL UNDER 37 CFR § 41.37(c)(1)(vi)

Claims 1-6, 8-12, 14-19, and 21-25 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Publication 2002/0019814 to Ganesan in view of U.S. Patent 5,910,987 to Ginter et al. (hereinafter "Ginter"). That rejection is being appealed.

VII. ARGUMENTS UNDER 37 CFR § 41.37(c)(1)(vii)

Appellant respectfully submits the claims as written clearly recite features neither taught nor suggested by the applied art.

Independent Claims 1, 6, 8, 15, 19, 21, 22, and 25

Claim 1 is directed to an information processing system that includes, in part, a license server providing a license for utilizing content, and a terminal requesting the license from the license server, obtaining the license, and utilizing the content based on the license. The system of Claim 1 comprises, in part, “duplicate-license determination means for determining whether or not the license requested by the terminal from the license server duplicates a license already held by the terminal.” Claim 15 includes a similar feature. Similarly, Claims 22 and 25 recite “a duplicate-license determination section configured to determine whether the license requested by the terminal from the license server duplicates a license already held by the terminal.” Claims 6, 8, 19, and 21 recite the related step of “determining whether or not a license requested from the license server duplicates an already available license.”

An embodiment of an information processing system according to these independent claims may advantageously prevent a user of content from mistakenly purchasing a duplicate license for the content.⁹ For example, a user may purchase a license to play back content a predetermined number of times, and if the user mistakenly believes that the number of playbacks allowed by the license has run out and requests the purchase of a new license, an embodiment of a system according to Claim 1, an apparatus according to Claim 15, 22, or 25 a method according to Claim 6 or 19, or a computer-readable medium according to Claim 8 or 21 may advantageously determine that the requested new license is an unnecessary

⁹ See, for example, the specification at page 2, line 19 to page 3, line 13.

duplicate of an existing license and may advantageously report the risk of duplication to the user.

Appellant respectfully submits that Ganesan and Ginter fail to teach or suggest each feature of any of the independent claims, and respectfully traverses the assertions in the Office Action that the references teach the claimed features.

As discussed in the interview on April 23, 2008, and as reiterated in the Interview Summary prepared by the Examiners immediately following the interview, “[t]he Examiner agreed that the cited sections [from the Office Action] do not specially teach the determining means and reporting means.” However, appellant respectfully submits that the Office Action dated August 21, 2008 merely reiterates the previous rejection without citing any new portions of the references or providing any different explanation as to why the claims should be rejected over the previously cited portions of the references.

Further, appellant respectfully submits that Ganesan and Ginter fail to teach or suggest determining that a license requested by a terminal from a license server is a duplicate of a license already held by the terminal. As noted in the Office Action at page 3, first paragraph, the Examiner agrees that Ganesan fails to teach that feature. In addition, Appellant respectfully traverses the assertion in the Office Action at page 3, second paragraph, that Ginter discloses the claimed duplicate-license determination means.

Ginter describes a system and method for secure transaction management and electronic rights protection “that help ensure that information is accessed and/or otherwise used only in authorized ways, and maintains the integrity, availability, and/or confidentiality of such information and processes related to such use.”¹⁰ In particular, in the portions of Ginter identified by the Office Action, as well as in the remaining portions of Ginter, the

¹⁰ Ginter at column 1, lines 16-22.

system of Ginter is directed towards the conventional goal of merely ensuring that *content* use is authorized and that *content* integrity is preserved.

For example, in the portions of the specification identified by the Office Action, Ginter indicates a system that may indicate an audit of content use,¹¹ may provide secure means for charging users based on information and/or resources actually used,¹² may optionally “meter, bill or budget” for the satisfaction of a request for content,¹³ may decide whether particular information is “VDE-protected content,”¹⁴ may utilize a Remote Procedure Call software architecture for communication between processes,¹⁵ may include a lookup table to meter or count how many times a particular event occurs, for events such as “User authentication accepted,” and “Available budget insufficient to complete requested procedure.”¹⁶ Other portions of Ginter cited in the Office Action recite that the system may automatically contact a “particular VDE administrator” when a user has run out of budget for further access to a restricted content,¹⁷ may provide “details of the use activity to date (e.g., audit trails),”¹⁸ may determine “if the use information indicates proper use of the content, and/or if the distributor is credit worthy for more budget,”¹⁹ may include a “requirements record” that identifies requirements for exercising a right associated with a particular content,²⁰ may send a user a “return receipt” for a distributed document,²¹ may outline specific requirements for obtaining access to particular content,²² and may identify several

¹¹ Ginter at column 34, lines 7-11.

¹² Ginter at column 37, lines 16-34.

¹³ Ginter at column 55, lines 57-64.

¹⁴ Ginter at column 59, lines 23-28.

¹⁵ Ginter at column 87, lines 5-55.

¹⁶ Ginter at column 120, line 24 to column 121, line 8.

¹⁷ Ginter at column 159, lines 16-35.

¹⁸ Ginter at column 171, lines 19-20.

¹⁹ Ginter at column 171, lines 24-26.

²⁰ Ginter at column 266, lines 2-8.

²¹ Ginter at column 275, lines 43-49.

²² Ginter at column 277, lines 1-49.

alternatives for content distribution and storage.²³ However, Ginter fails to address or even suggest license duplication in any of these cited portions.

In addition, regarding an X.509 public key protocol process for establishing a secure, authenticated, communication channel, Ginter indicates a step of determining that “a particular communication proposal” does not duplicate an earlier communication proposal.²⁴ However, the communication proposal of Ginter is merely a message for establishing secure communications and is not a license for content.

In other words, Ginter describes a system for the *authorized use of content*. However, Ginter is silent regarding any determination about the possibility of license duplication. Further, Ginter does not teach or suggest an apparatus or method that determines that one license is a duplicate of another license. Therefore, Ginter also fails to teach or suggest any detection or reporting of *license* duplication, and Ginter fails to teach or otherwise suggest any determination that a requested *license* is a duplicate of an existing *license*.

Accordingly, Appellant respectfully submits that Ganesan and Ginter fail to teach or suggest “duplicate-license determination means for determining that the license requested by the terminal from the license server is a duplicate of a license already held by the terminal,” as recited in independent Claim 1, and as similarly recited in independent Claims 6, 8, 15, 19, 21, 22, and 25.

Independent Claims 2 and 23

Independent Claim 2 is directed to an information apparatus for requesting a license from a license server providing the license for utilizing content, obtaining the license, and

²³ Ginter at column 279, lines 6-21.

²⁴ Ginter at column 215, line 63 to column 216, line 54.

utilizing the content based on the license. The apparatus includes, in part, “means for determining whether or not a license requested from the license server duplicates an already available license.” Similarly, but without the use of means-plus-function terminology, independent Claim 23 recites “a duplicate-license determination section configured to determine whether a license requested from the license server duplicates an already available license.”

Ganesan fails to teach or suggest the claimed “means for determining” as noted in the Office Action at page 4, second paragraph. Appellant respectfully submits that Ginter also fails to teach or suggest the features lacking in the disclosure of Ganesan. Further, Appellant respectfully traverses the assertion in the Office Action that the same portions of Ginter cited with regard to Claim 1 also disclose the features of Claims 2 and 23.

However, as discussed above, Ginter merely discusses an approach for the *authorized use of content*. Ginter is silent regarding any determination about the possibility of license duplication. Further, Ginter does not teach or suggest an apparatus or method that determines that one license is a duplicate of another license. Consequently, Ginter also fails to teach or suggest any reporting of *license* duplication, and Ginter fails to teach or otherwise suggest any determination that a requested *license* is a duplicate of an existing *license*. Ginter also fails to disclose or suggest an apparatus for requesting a license that may determine if the requested license is a duplicate of another license.

Accordingly, Appellant respectfully submits that Ganesan and Ginter fail to teach or suggest “duplicate-license determination means for determining whether or not a license requested from the license server duplicates an already available license,” as required by independent Claim 2, and as similarly required by independent Claim 23.

Dependent Claims 4 and 10

Claims 4 and 10 each recite “means for confirming whether or not a license which duplicates an already available license is purchased when license duplication is reported by the license-duplication reporting means.”

Ganesan fails to teach or suggest the claimed “means for confirming” as noted in the Office Action at page 4, second paragraph. Appellant respectfully submits that Ginter also fails to teach or suggest the features lacking in the disclosure of Ganesan. Further, Appellant respectfully traverses the assertion in the Office Action that the same portions of Ginter cited with regard to Claim 1 also disclose the features of dependent Claims 4 and 10.

However, as discussed above, Ginter is silent regarding any determination of *license duplication*. Accordingly, it is respectfully submitted that Ginter is also silent about any confirmation regarding the purchase of a license when license duplication is reported. Thus, Ganesan and Ginter also fail to teach or suggest “means for confirming whether or not a license which duplicates an already available license is purchased,” as required by Claims 4 and 10.

Dependent Claim 5

Claim 5 is directed to an apparatus according to Claim 2, wherein the duplicate-license determination means determines whether or not a license requested from the license server duplicates an already available license by comparing the license identification information acquired by the license-identification-information acquiring means with the license list stored by the license-list storage means. In other words, Claim 5 more specifically recites duplicate license determination.

Ganesan fails to teach or suggest that feature of Claim 5 as noted in the Office Action at page 7, third paragraph. Appellant respectfully submits that Ginter also fails to teach or suggest the features lacking in the disclosure of Ganesan. Further, Appellant respectfully

traverses the assertion in the Office Action that the same portions of Ginter cited with regard to Claim 1 also disclose the features of dependent Claim 5.

As discussed above, Ginter is silent regarding any determination of *license duplication*. Thus, Ginter fails to teach or suggest determining that one license duplicates another license by any apparatus. As a result of that deficiency, Ginter also fails to teach or suggest determining that one license duplicates another license by the specific apparatus required in Claim 5. That is, Ganesan and Ginter fail to teach or suggest “the duplicate-license determination means determines whether or not a license requested from the license server duplicates an already available license by comparing the license identification information acquired by the license-identification-information acquiring means with the license list stored by the license-list storage means.”

Independent Claims 9, 12, 14, and 24

Independent Claim 9 is directed to an information processing apparatus for requesting a license from a license server providing the license for utilizing content, obtaining the license, and utilizing the content based on the license. The apparatus includes, in part, “license-duplication reporting means for reporting license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received by the determination-result receiving means.” Similarly, but without the use of means-plus-function terminology, independent Claim 24 recites “a license-duplication reporting section configured to report license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received by the determination-result receiving section.” Claim 12 is directed to a method that

includes a step performing a similar function, and Claim 14 recites a computer-readable medium that includes a step performing a similar function.

Ganesan fails to teach or suggest the claimed “means for reporting license duplication” as noted in the Office Action at page 11, fourth paragraph. Appellant respectfully submits that Ginter also fails to teach or suggest the features lacking in the disclosure of Ganesan. Further, Appellant respectfully traverses the assertion in the Office Action that the portions of Ginter cited with regard to Claim 1 also disclose the features of Claims 9, 12, 14, and 24.

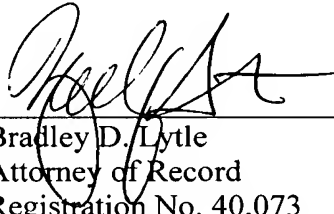
As discussed above, Ginter merely discusses a system that controls the authorized use of content, and Ginter fails to disclose or suggest any determination regarding license duplication. In addition, as Ginter is silent regarding a determination of license duplication, Ginter is also silent regarding any reporting of license duplication. Accordingly, Appellant respectfully submits that Ganesan and Ginter fail to teach or suggest “means for reporting license duplication indicating that the license requested from the license server duplicates an already available license,” as recited by Claim 9, and as similarly required by Claims 12, 14, and 24.

CONCLUSION

In view of these foregoing comments, appellant respectfully submits the claims as currently written clearly distinguish over the applied art, and thereby the outstanding rejections must be REVERSED.

Respectfully submitted,

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CLAIMS APPENDIX UNDER 37 CFR § 41.37(c)(1)(viii)

Claim 1. An information processing system comprising:
a license server providing a license for utilizing content; and
a terminal requesting the license from the license server, obtaining the license, and
utilizing the content based on the license,

wherein one of the license server and the terminal includes:

duplicate-license determination means for determining whether or not the license
requested by the terminal from the license server duplicates a license already held by the
terminal, and

wherein the terminal includes:

license-duplication reporting means for reporting license duplication indicating that
the license requested by the terminal from the license server duplicates a license already held
by the terminal according to the determination result by the duplicate-license determination
means.

Claim 2. An information processing apparatus for requesting a license from a license
server providing the license for utilizing content, obtaining the license, and utilizing the
content based on the license, comprising:

duplicate-license determination means for determining whether or not a license
requested from the license server duplicates an already available license; and

license-duplication reporting means for reporting license duplication indicating that
the license requested from the license server duplicates an already available license according
to the determination result by the duplicate-license determination means.

Claim 3. The information processing apparatus according to claim 2, further comprising:

purchase-requesting means for requesting a purchase of the license from the license server according to an operation of a user,

wherein the duplicate-license determination means determines whether or not the license to be purchased duplicates an already available license after or before the purchase-requesting means requests a purchase of the license from the license server.

Claim 4. The information processing apparatus according to claim 2, further comprising:

confirming means for confirming whether or not a license which duplicates an already available license is purchased when license duplication is reported by the license-duplication reporting means.

Claim 5. The information processing apparatus according to claim 2, further comprising:

license-identification-information acquiring means for acquiring license identification information of a license required to utilize content from the license server; and

license-list storage means for storing a license list of licenses already purchased,

wherein the duplicate-license determination means determines whether or not a license requested from the license server duplicates an already available license by comparing the license identification information acquired by the license-identification-information acquiring means with the license list stored by the license-list storage means.

Claim 6. A method for processing information comprising:

- requesting a license from a license server providing the license for utilizing content;
- obtaining the license;
- utilizing the content based on the license;
- determining whether or not a license requested from the license server duplicates an already available license; and
- reporting license duplication indicating that the license requested from the license server duplicates an already available license according to the determination result in the determining step.

Claim 7 (Canceled).

Claim 8. A computer-readable medium storing a computer-executable program for processing information, and when the program is executed by a computer, the computer performs steps comprising:

- requesting a license from a license server providing the license for utilizing content;
- obtaining the license;
- utilizing the content based on the license;
- determining whether or not a license requested from the license server duplicates an already available license; and
- reporting license duplication indicating that the license requested from the license server duplicates an already available license according to the determination result in the determining step.

Claim 9. An information processing apparatus for requesting a license from a license server providing the license for utilizing content, obtaining the license, and utilizing the content based on the license, apparatus comprising:

determination-result receiving means for receiving from the license server a result of determination as to whether or not a license requested from the license server duplicates an already available license; and

license-duplication reporting means for reporting license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received by the determination-result receiving means.

Claim 10. The information processing apparatus according to claim 9, further comprising:

confirming means for confirming whether or not a license which duplicates an already available license is purchased when license duplication is reported by the license-duplication reporting means.

Claim 11. The information processing apparatus according to claim 9, further comprising:

content-identification-information sending means for sending to the license server content identification information for identifying the content to be utilized,

wherein the determination-result receiving means receives from the license server a result of determination as to whether or not the license required to utilize the content identified with the content identification information sent by the content-identification-information sending means duplicates an already available license.

Claim 12. A method for processing information for requesting a license from a license server providing the license for utilizing content, obtaining the license, and utilizing the content based on the license, the method comprising:

a determination-result receiving step of receiving from the license server a result of determination as to whether or not the license requested from the license server duplicates an already available license; and

a license-duplication reporting step of reporting license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received in the determination-result receiving step.

Claim 13 (Canceled).

Claim 14. A computer-readable medium storing a computer-executable program for processing information, and when the program is executed by a computer, the computer performs steps comprising:

requesting a license from a license server providing the license for utilizing content;

obtaining the license;

utilizing the content based on the license;

receiving from the license server a result of determination as to whether or not the license requested from the license server duplicates an already available license; and

reporting license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received in the receiving step.

Claim 15. An information processing apparatus for providing a license for utilizing content in response to a request by a terminal utilizing the content, comprising:

query means for making an inquiry about licenses already held by the terminal;

duplicate-license determination means for determining whether or not the license requested by the terminal duplicates a license already held by the terminal; and

determination-result sending means for sending a determination result by the duplicate-license determination means to the terminal.

Claim 16. The information processing apparatus according to claim 15, further comprising:

license-information storage means for storing information about the license provided to the terminal,

wherein the query means asks the license-information storage means for licenses already held by the terminal.

Claim 17. The information processing apparatus according to claim 15, wherein the query means asks a management server managing information about the license provided to the terminal for licenses already held by the terminal.

Claim 18. The information processing apparatus according to claim 15, wherein, when the duplicate-license determination means determines that the license requested by the terminal duplicates a license already held by the terminal and when a message confirming purchase of the license that duplicates the license already held by the terminal is sent from the terminal, the license requested by the terminal is provided to the terminal.

Claim 19. A method for processing information for providing a license for utilizing content in response to a request by a terminal utilizing the content, the method comprising:

- making an inquiry about licenses already held by the terminal;
- determining whether or not the license requested by the terminal duplicates a license already held by the terminal; and
- sending a determination result in the determining step to the terminal.

Claim 20 (Canceled).

Claim 21. A computer-readable medium storing a computer-executable program for processing information for providing a license for utilizing content in response to a request by a terminal utilizing the content, and when the program is executed by a computer, the computer performs steps comprising:

- making an inquiry about licenses already held by the terminal;
- determining whether or not the license requested by the terminal duplicates a license already held by the terminal; and
- sending a determination result in the determining step to the terminal.

Claim 22. An information processing system comprising:

- a license server providing a license for utilizing content; and
- a terminal requesting the license from the license server, obtaining the license, and utilizing the content based on the license,

wherein one of the license server and the terminal includes:

a duplicate-license determination section configured to determine whether the license requested by the terminal from the license server duplicates a license already held by the terminal, and
wherein the terminal includes:

a license-duplication reporting section configured to report license duplication indicating that the license requested by the terminal from the license server duplicates a license already held by the terminal according to the determination result by the duplicate-license determination section.

Claim 23. An information processing apparatus for requesting a license from a license server providing the license for utilizing content, obtaining the license, and utilizing the content based on the license, comprising:

a duplicate-license determination section configured to determine whether a license requested from the license server duplicates an already available license; and

a license-duplication reporting section configured to report license duplication indicating that the license requested from the license server duplicates an already available license according to the determination result by the duplicate-license determination section.

Claim 24. An information processing apparatus for requesting a license from a license server providing the license for utilizing content, obtaining the license, and utilizing the content based on the license, the apparatus comprising:

a determination-result receiving section configured to receive from the license server a result of determination as to whether a license requested from the license server duplicates an already available license; and

a license-duplication reporting section configured to report license duplication indicating that the license requested from the license server duplicates an already available license according to the result of determination as to license duplication received by the determination-result receiving section.

Claim 25. An information processing apparatus for providing a license for utilizing content in response to a request by a terminal utilizing the content, comprising:

a query section configured to make an inquiry about licenses already held by the terminal;

a duplicate-license determination section configured to determine whether the license requested by the terminal duplicates a license already held by the terminal; and

a determination-result sending section configured to send a determination result by the duplicate-license determination section to the terminal.

EVIDENCE APPENDIX UNDER 37 CFR § 41.37(c)(1)(ix)

None.

RELATED PROCEEDINGS APPENDIX UNDER 37 CFR § 41.37(c)(1)(x)

None.